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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,813	07/17/2006	Fred Eggers	3926.216	7756
41288	7590	03/09/2009		
PATENT CENTRAL LLC Stephan A. Pendorf 1401 Hollywood Boulevard Hollywood, FL 33020			EXAMINER	
			GOODEN JR, BARRY J	
			ART UNIT	PAPER NUMBER
			3616	
			MAIL DATE	DELIVERY MODE
			03/09/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/553,813	EGGERS ET AL.
	<b>Examiner</b> Barry J. Gooden Jr.	Art Unit 3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 17 December 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 July 2006 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/146/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Objections***

1. Claims 1 is objected to because of the following informalities:

Claim 1, line 4, "extends and" should be replaced with "extends, and".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lutz, US Patent 6,095,012.

In regards to claims 1 and 3-5, Lutz discloses all of the claimed elements including a clamping device for a steering column of a motor vehicle, said device comprising:

first (12) and second (3) jaw-shaped components running vertically parallel to one another, between which a casing tube (6) of the steering column extends and which have two opposing through-openings; and

a clamping bolt (10), which passes through the through-openings and interacts by tensioning with a counter-element (21) in order to apply the clamping force, the bolt head (near 22) being arranged on sides of the exterior of the first jaw-shaped

component and the counter-element on sides of the exterior of the second jaw-shaped component;

wherein one jaw-shaped component (12) is of elastically flexible design, at least in the thickness direction, and the other jaw-shaped component (3) is of flexurally rigid design, at least in the thickness direction (Reference is made to Figures 1-3 and 8);

wherein the two components (3, 12) are fitted to the body of the vehicle;

wherein the two component are arranged on a mounting bracket (1), which is firmly fixed to the vehicle;

wherein at least one transversely flexible shim (17), which is fixed to the steering column casing tube, is arranged on the clamping bolt (10) next to an exterior of at least one of the components (3).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz in view of Sato et al., US Patent 6,237,954.

In regards to claim 2, Lutz discloses all of the claimed elements including the flexurally rigid component (3) being designed with a correspondingly large wall thickness and the elastically flexible component (12) with a correspondingly small wall thickness. Yet excluding the two components (3, 12) being made from the same material, as only component 12 is disclosed 12 as being made of metal and the material of component 3 is undisclosed.

Sato et al. discloses a U-shaped bracket rigidly attached to a vehicle and discloses the bracket as being metal.

It would have been obvious to one of ordinary skill in the art to make the component 3 of Lutz out of metal as it is a readily available material that can be easily attached through welding to a vehicle cross member.

#### ***Response to Arguments***

7. Applicant's arguments filed December 17, 2008 have been fully considered but they are not persuasive. Examiner maintains the previous rejection is proper.

In regards to the applicant's argument "Thus, the base claim does not recite shims or plates...", the argument does not serve to distinguish over the prior art and is not commensurate with the rejection.

In regards to the applicant's argument concerning legs 3 not having a clamping function, the examiner disagrees, the lamellas are provided on the outside of the legs there is no way for them to independently clamp the steering column without the legs, thus there is a clamping force transmitted via the legs. Examiner maintains the rejection is proper.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is

(571)272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-695269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3616

Barry J Gooden Jr.  
Examiner  
Art Unit 3616

/BJG/